

REMARKS

Election/Restriction

In the Office Action of November 23, 2004, the Examiner imposed a restriction under 35 U.S.C. § 121 having identified two purportedly distinct inventions:

- I. Claims 1-10 and 16-24 drawn to a method of attaching a rotatable outer label to an inner label;
- II. Claims 11-15 and 25-29 drawn to a method of attaching a rotatable label to a container.

Applicant hereby provisionally elects to proceed with examination of Group II (claims 11-15 and 25-29), and withdraws the claims of Group I (claims 1-10 and 16-24) as being drawn to a non-elected invention, with traverse.

Specifically, the Examiner contends that the inventions are unrelated because they have different functions: "the first invention attaches a rotatable outer label to an inner label and the second invention attaches a rotatable label directly to a container. Applicant strongly disagrees with this interpretation of the claims.

The first invention comprises temporarily *coupling* a rotatable outer label to the inner label while the outer label is wrapped about the object. "Coupling" does not mean to attach (in a permanent sense) to the object. In fact, the independent claims of Group I specify that the rotatable outer label is "temporarily coupled" to the inner label.

The second invention also comprises coupling a rotatable outer label about the object. Once again the rotatable outer label is not attached to the object, but temporarily coupled to the object. Further, the definition of "coupled" includes a possibility that an intermediate element may be present between the two elements being coupled.

"Coupling" is a term of art which "generically describes a connection, and does not require a mechanical or physical coupling" or connection Johnson Worldwide Associates, Inc. v. Zebco Corporation 175 F.3d 985. Therefore, the rotatable outer label

is not attached to the inner label (in the first invention) or directly attached to the container (in the second invention). Instead, the rotatable outer label is temporarily coupled to or about the object, and as such, it is possible that an inner label may be present between the rotatable outer label and the object in the second invention. Therefore, the claims of Group I and II are linked.

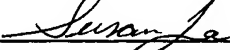
Furthermore, both inventions comprise "a rotatable outer label". The function of the rotatable outer label is not to be directly attached to the inner label or container, as the Examiner contends, but to be temporarily coupled to or about the object (e.g., via a direct coupling or via an inner label coupling) and later to be rotatable about the object once the temporary coupling mechanism is removed. Therefore, Applicant contends the restriction requirement is not applicable.

However, in response to the Office Action, Applicants are provisionally electing to proceed with claims of Group II with traverse.

If the Examiner has any questions regarding the application, the Examiner is invited to contact Applicant's representative at the number below.

Respectfully submitted,
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